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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/529,720	03/30/2005	Bruno Bozzonek	2002P10527WOUS	9102
7590 Siemens Corporation Intellectual Property Department 170 Wood Avenue South Iselin, NJ 08830			EXAMINER PHUNG, LUAT	
			ART UNIT 2616	PAPER NUMBER
			MAIL DATE 12/26/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/529,720

Applicant(s)

BOZIO NEK ET AL.

Examiner

Luat Phung

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 19-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 30 March 2005.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This is in response to a letter for patent filed on 20 March 2005 in which claims 19-38 are presented for examination and are pending.

Claims 19-38 are rejected.

#### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

#### ***Specification***

2. The disclosure is objected to because of the following informalities:  
In para. 46, it is suggested to remove the extra word "with" in "with with".  
Appropriate correction is required.

#### ***Claim Objections***

3. Claim 37 is objected to because of the following informalities:  
Claim 37, line 1, recites "adapted [to]" which constitutes intended use making the functionality following not carry any patentable weight since it never actually has to take

place. Claims should be amended to recite more direct and positive language such as "is", "are", "to", or "that".

Claim 37, line 10, recites "so that" which constitutes intended use making the functionality following not carry any patentable weight since it never actually has to take place. Claims should be amended to recite more direct and positive language such as "is", "are", "to", or "that".

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 32 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 32 recites the limitation "the telephone and/or video conference data unit" in lines 2-3. There is insufficient antecedent basis for this limitation in the claim. Is it intended to refer to "device" instead of "unit"?

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claims 19-38 are rejected under U.S.C. 103(a) as being unpatentable over Potter, et al (US Pub. 2001/0043608), in view of Srinivasan, et al (US Pub. 2003/0037284).

Regarding claim 19, Potter discloses a data communications system, comprising:  
a plurality of clients; (Fig. 2, element 12; para. 2, 9, 26)  
a plurality of telephone and/or video conference data processing devices supporting a first data transmission protocol; (Fig. 2, element 12; para. 2, 9, 26)  
a data processing device supporting the first and a second data transmission protocol, wherein the data processing device converts and forwards data to a telephone and/or video conference data processing device such that this data can be used by clients supporting the first and the second data transmission protocol; (Fig. 2, elements 44, 46, 48, 50, 36, 40, 14, 15, 38; para. 9, 12, 26)

Potter does not explicitly disclose:

a resource control device, which in cases in which a request cannot be processed by a telephone and/or video conference data processing device, causes another telephone and/or video conference data processing device to take over the request.

Srinivasan from the same or similar fields of endeavor discloses a fault-tolerant server system in which when a master server cannot handle a request for video conferencing service, a backup server will take over the request (para. 8-12; 59). Thus

is would have been obvious to the person of ordinary skill in the art at the time of the invention to combine Potter's data communications system with Srinivasan's fault-tolerant system by having the device not being able to handle the request to forward it to another device capable of handling the request. The motivation for combining would be ensure service availability of the network.

Regarding claim 20, Potter discloses wherein the telephone and/or video conference data processing device and the data processing device are arranged in a computer. (Fig. 2, elements 44, 46, 48, 50, 36, 50; para. 25, 26)

Regarding claim 21, Potter discloses wherein the computer is a server. (Fig. 2, elements 44, 46, 48, 50, 36, 50; para. 25, 26)

Regarding claim 22, Potter discloses wherein the computer is a PBX computer. (para. 29)

Regarding claim 23, Potter discloses wherein the second data transmission protocol is an open, standardized protocol. (para. 12, 23)

Regarding claim 24, Potter discloses wherein the second data transmission protocol is an H.323 or H.225/H.245-based protocol or an SIP-based protocol. (para. 12, 23)

Regarding claim 25, Potter discloses wherein the first data transmission protocol is a proprietary or generic protocol. (Fig. 2, elements 12, 14, 15; para. 2, 26)

Regarding claim 26, Potter discloses wherein the first data transmission protocol is a PCM- or TDM-based protocol. (Fig. 2, elements 12, 14, 15; para. 2, 26)

Regarding claim 27, Potter discloses wherein the first and/or the second data transmission protocol is a TCP/IP-based data transmission protocol. (para. 30-31)

Regarding claim 28, Potter discloses wherein clients supporting the first data transmission protocol and clients supporting the second data transmission protocol can jointly hold a telephone and/or video conference with each other simultaneously by using the telephone and/or video conference data processing device. (abstract; para. 1, 9)

Regarding claim 29, Potter discloses wherein one or more of the clients are connected to an Intranet data network. (Fig. 2; para. 25)

Regarding claim 30, Potter discloses wherein one or more of the clients are arranged outside the Intranet data network. (Fig. 3; para. 32)

Regarding claim 31, Examiner takes official notice that it is well known in the art at the time of the invention that one or more of the clients can be configured to be connected to a further Intranet data network.

Regarding claim 32, Potter discloses wherein the telephone and/or video conference data processing unit is connected to the Intranet data network. (Fig. 2; para. 25)

Regarding claim 33, Potter discloses wherein a further telephone and/or video conference data processing device supporting the first data transmission protocol is provided which can be used instead of the telephone and/or video conference data processing device. (Fig. 2, element 12; para. 2, 9, 26)



Regarding claim 34, Potter discloses wherein the further telephone and/or video conference data processing device is connected to the Intranet data network, or wherein the further telephone and/or video conference data processing device is arranged outside the Intranet data network. (Fig. 3; para. 32)

Regarding claim 35, Potter discloses wherein an additional telephone and/or video conference data processing device supporting the second data transmission protocol is provided, which can be used instead of the telephone and/or video conference data processing device. (Fig. 2, elements 44, 46, 48, 49)

Regarding claim 36, Potter discloses wherein the additional telephone and/or video conference data processing device is connected to the Intranet data network, or wherein the additional telephone and/or video conference data processing device is arranged outside the Intranet data network is connected to a further Intranet data network. (Fig. 3; para. 32)

Claims 37 and 38 are computer and method claims, respectively, corresponding to system claim 19, and is therefore rejected under the same reason.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure (see form 892).

11. Examiner's Note: Examiner has cited particular paragraphs, columns and line numbers in the references applied to the claims above for the convenience of the

applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner. In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and, also to verify and ascertain the metes and bounds of the Claimed invention.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luat Phung whose telephone number is 571-270-3126. The examiner can normally be reached on M-Th 7:30 AM - 5:00 PM, F 7:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Firmin Backer can be reached on 571-272-6703. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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LP

A handwritten signature in black ink, appearing to read 'B. Nguyen', is written over a horizontal line.

**BRIAN NGUYEN  
PRIMARY EXAMINER**